

### **Remarks/Arguments**

As of the Office Action mailed April 5, 2005 claims 3-6, 12 and 13 are pending in the application and claims 4, 6, 12 and 13 stand rejected. Claims 3 and 5 have been withdrawn from consideration. Reexamination and reconsideration are respectfully requested in light of the amendments and remarks/arguments herein.

### **Objections to the Drawings**

The drawings are objected to under 37 C.F.R. §1.83(a). The Applicants have removed the references in the claims to the induction system, inductions ducts, cylinder head and internal combustion engine as requested by the Examiner. Accordingly, Applicants believe that the Examiner's rejections have been made moot.

### **Claim Objections**

Claims 12 and 13 have been objected to because it appears that rotably should be rotatably. Accordingly, Applicants have amended claims 12 and 13 to recite "rotatably." Applicants believe that the Examiner's rejections have been made moot.

### **Rejections Under 35 U.S.C. §112**

Claims 4, 6, 12 and 13 have been rejected under 35 USC §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 has been amended to recite an insert having a recess comprising: a plurality of openings each fitted with a flap device for influencing the flow cross-section in said plurality of

openings wherein each flap device comprises a control element arranged in each opening and between each two neighbouring control elements a shaft portion having a first and second end and of cranked configuration in a region between first and second ends. The claim now also recites wherein said recess is positioned between said first and second ends of said shaft. Support can be found upon consideration of **FIG. 2** which illustrates that the recess **15** is positioned between the first and second ends of the shaft (see items **5** and **6** in **FIG. 1**). In addition, reference is made to paragraph **0035** which recites

“[t]he insert **13** has a plurality of recesses **15** through which can engage connecting means such as for example screws which serve to secure the induction system to the cylinder head. By virtue of the cranked configuration of the shaft portions **3** which are arranged between each two control elements **2**, the recesses **15** can extend beyond the axis of rotation **20** of the flap devices **1**.”

Accordingly, no new matter is believed entered by the amendment to claim 12.

Applicants also believe that this amendment clarifies any confusion as to the relationship between the number of flap devices to the number of openings to the number of shaft portions. Furthermore, the references to “the induction system,” “the cylinder head,” and “the respective openings” have been removed from claim 12. Accordingly it is believed that the rejection of claim 12 and any depending claims is rendered moot.

Claim 13 has been amended to recite a plurality of flap devices arranged in a row for influencing the flow cross section in a plurality of medium carrying conduits comprising a plurality of control elements each arrangeable in one of said conduits, a plurality of shaft portions each having a first and second end and of a cranked configuration in a region between the first and second ends, said row of flap devices having an axis of rotation and capable of being fitted with an insert having a recess wherein said recess is capable of extending beyond the axis

of rotation of said flap device, each of said shaft portions being positioned between each two control elements, means for mounting the shaft portions rotatably with respect to the conduits, and means operable to fix first and second control elements in torsionally stiff relationship to the first and second ends of each of the shaft portions.

Support for this amendment may be found, for example in paragraph **0031** and **0035** of the published application which recites, with reference to **FIG. 1**, a plurality of flap devices **1** which are arranged in a row and which are rotatable about a common axis of rotation as indicated at **20**. In addition, paragraph **0035** recites that the insert has a recess and that the recess may extend beyond the axis of rotation **20**. No new matter has been entered.

Applicants believe that this amendment clarifies confusion as to the relationship between the number of flap devices to the openings to the number of shaft portions. Furthermore, Applicants believe the amendment clears up the confusion with respect to the “conduits.” It is therefore believed that the rejection of claim has been rendered moot by the amendments herein.

#### Rejections Under 35 U.S.C. §102/103

Claims 12-13 are rejected under 35 U.S.C. §102 as being anticipated by Mayer et al, U.S. Patent No. 5,996,549. Claims 4 and 6 are rejected under 102(b) or 103 as anticipated or rendered obvious by Mayer et al. Claims 4, 12 and 13 have been rejected under 35 U.S.C. 103 as being rendered obvious by Mayer et al in view of Hatton, U.S. Patent No. 6,135,418. Claims 6, 12 and 13 are rejected under 35 U.S.C. 103 as rendered obvious by Mayer et al in view of Pearson et al, U.S. Patent No. 5,347,032.

Applicants initially note that the presently claimed invention contemplates that between each two neighbouring control elements a shaft portion having a first and second end has a

cranked configuration and the insert has a recess and the recess is positioned between the first and second end of the shafts. Such feature is not believed disclosed or suggested by the art of record.

Mayer discloses a common continuous pivot axle (Col. 2, lines 55/56) with a plurality of flaps having a single cranked portion 32 (eccentric) for connection with the actuator 34 (Fig. 1, and Col. 3, line 31). Mayer therefore discloses a single shaft upon which all of the flap devices are positioned; whereas the presently claimed invention has between each two neighboring control elements a shaft portion having a first and second end and of cranked configuration. Mayer also fails to disclose that the insert has a recess and that the recess is positioned between the first and second ends of the shaft. Therefore, Mayer fails to teach or suggest that a shaft portion is positioned between each of two neighboring control elements or that the insert has a recess and that the recess is positioned between the first and second ends of the shaft.

Hatton and Pearson also fail to make up for the deficiency of the primary reference. Hatton discloses a single shaft, wherein the "butterfly valves 12 [are] selectively positioned on the shaft 14." Col. 3, lines 34-35. Pearson discloses an actuator shaft 58. Col. 3, lines 1-3. Neither Hatton nor Pearson disclose the use of a shaft including a portion with a cranked configuration.

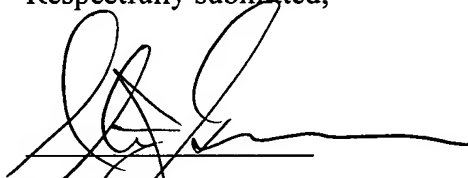
In light of the above, Applicant respectfully submits that claims 12-13 and their depending claims are not taught or suggested by the cited references. In consideration of the foregoing Applicant respectfully requests that the rejections of claims 4, 6, and 12-13 are withdrawn upon reconsideration.

Appln. No.: 10/780,040  
Amndt. dated October 5, 2005  
Reply to Office Action of April 5, 2005

Having overcome all of the outstanding rejections, it is respectfully submitted that the application is now in condition for allowance. Early and favorable action is respectfully solicited.

In the event that there are any fee deficiencies, or additional fees are payable, please charge, or credit any overpayment to, our Deposit Account No. 50-2121.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Steven J. Grossman', is written over a horizontal line.

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